

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

WARREN KEITH RODGERS, #1072740 §
VS. § CIVIL ACTION NO. 6:15cv673
DIRECTOR, TDCJ-CID §

ORDER OF DISMISSAL

Petitioner Warren Keith Rodgers, an inmate confined in the Texas prison system, proceeding *pro se*, filed the above-styled and numbered petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that the petition for a writ of habeas corpus should be dismissed as time-barred. Petitioner has filed objections.

Petitioner was convicted in Wood County on September 6, 2001. The conviction was affirmed and became final in 2003. The present petition was due no later than July 26, 2004, in the absence of tolling provisions, but it was not filed until almost eleven years later on July 6, 2015. He has not shown that the petition may be saved by either statutory or equitable tolling. His objections focusing on his attorney and lack of DNA testing are not sufficient to overcome the statute of limitations. The petition should be dismissed as time-barred.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of Petitioner are without merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the Report and Recommendation (docket entry #15) is **ADOPTED**. It is further

ORDERED that the petition for a writ of habeas corpus is **DENIED** and the case is **DISMISSED** with prejudice as time-barred. A certificate of appealability is **DENIED**. It is finally

ORDERED that all motions not previously ruled on are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 2nd day of September, 2015.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE